

No. 82-1134

Office-Supreme Court, U.S.  
FILED

FEB 24 1983

ALEXANDER L. STEVAS.  
CLERK

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1982

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, *et al.*,  
*Petitioners,*  
v.  
GEORGE WILLIAMS, *et al.*,  
*Respondents.*

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

**PETITIONERS' REPLY BRIEF**

SEYMOUR M. WALDMAN  
(Counsel of Record)  
VLADECK, WALDMAN, ELIAS & ENGELHARD, P.C.  
1501 Broadway  
New York, New York 10036  
(212) 354-8330

DENNIS M. ANGELICO  
HESS & WASHOFKY  
A Professional Corporation  
1411 Decatur Street  
New Orleans, Louisiana 70116  
(504) 949-2742

*Attorneys for Petitioners*

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1982

No. 82-1134

---

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, *et al.*,

*Petitioners,*

v.

GEORGE WILLIAMS, *et al.*,

*Respondents.*

---

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

**PETITIONERS' REPLY BRIEF**

In opposing grant of the petition herein and in the accompanying proceeding, No. 82-1129, respondents argue that this case is controlled by the decision in *State of Connecticut v. Teal*, 102 S.Ct. 2525 (1982). That argument ignores the critical, fundamental distinction between the present case and *Teal*.

In *Teal*, the State gave a promotional examination that barred a disparate number of black applicants, violating the standards set in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971). Those who failed that test were totally eliminated from further consideration for the supervisory jobs at stake. From the balance who passed the test, the State selected a significant number of blacks and sought to excuse the absolute barrier imposed by the offending examination on the ground that other members of the same race were advantaged in the ultimate selection process.

But the key to *Teal*, as this Court emphasized, was that the suing plaintiffs were no part of the pool of eligibles, having been eliminated at the outset by the barrier of the improper examination. The Court noted that the purpose of Title VII is to protect individuals, not races as such, and that the selection of other blacks during the second stage of the process did not excuse the injury to those deprived of that opportunity in the first stage. In the words of the Court of Appeals, quoted approvingly by this Court, the test imposed a "pass-fail barrier" which prevented the plaintiffs "from proceeding to the next step in the selection process."

Here, on the other hand, there is no entry discrimination, no pass-fail barrier, no exclusion of any longshoreman from the eligible pool. Plaintiffs have made no such claim, introduced no such evidence, cited no such finding. The black longshoremen who received a somewhat lower proportionate share of the grain work are the very same individuals who received a somewhat higher proportionate share of the non-grain work and their full proportionate share of the entirety of longshore work and longshore earnings. Unlike *Teal*, there is only one group, not two. The "class" which plaintiffs purport to represent participated in the various kinds of longshore work performed by all longshoremen in the New Orleans labor force and derived from their labor the same earnings as their white counterparts. They suffered neither disparate treatment nor disparate impact.

## CONCLUSION

For the reasons stated, and for those set forth in the Petition, the petition for a writ of certiorari should be granted.

Respectfully submitted,

SEYMOUR M. WALDMAN  
(Counsel of Record)  
VLADECK, WALDMAN, ELIAS & ENGELHARD, P.C.  
1501 Broadway  
New York, New York 10036  
(212) 354-8330

DENNIS M. ANGELICO  
HESS & WASHOFKY  
A Professional Corporation  
1411 Decatur Street  
New Orleans, Louisiana 70116  
(504) 949-2742

*Attorneys for Petitioners*

Dated: February 23, 1983